

Special Civil Application No 8528 of 95

Date of decision: 17/01/96

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DR.VISHNUCHANDRA SINGH vs STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioner
MR DA BAMBHANIA for Respondent No. 1

Coram : MR.JUSTICE C.K.THAKKER

ORAL JUDGEMENT

1. This petition is filed by the petitioner for quashing and setting aside the statement of allegations levelled against the petitioner by which departmental proceedings are ordered to be instituted against him. The said statements of allegations have been placed at Annexure.A to this petition dt. 18th June 1994. It is the case of the petitioner that the petitioner joined the service as Medical Officer, Chittorgadh, Rajasthan. He had married with one Premlata Singh in 1986. The petitioner thereafter resigned and joined the services as Medical Officer, Class II at the Primary Health Centre in Surat District. It is his case that a criminal complaint is filed against him by Premlata Singh wife of the petitioner in the court of the Chief Judicial Magistrate, Buxar for offences punishable under Sections 379, 498-A, 494 and 494/109 of the Indian Penal Code and also under Sec.4 of the Dowry Prohibition Act. Process is issued on the said complaint. That complaint is filed on November 19, 1992. Thereafter, the present show cause notice is issued as to why departmental proceedings should not be initiated against him. Therefore, alternative prayer

is also made that till disposal of the criminal proceedings departmental proceedings be kept in abeyance.

2. I have heard the parties. In my opinion, in the facts and circumstances of the case, it would meet ends of justice if instead of proceeding with the departmental inquiry, it is ordered to be kept in abeyance. Looking to the criminal complaint filed against the petitioner in which process issued by the competent court and also taking into account statement of allegations levelled in the departmental proceedings at Annexure.A it cannot be gain said that they relate to the same incident. In these circumstances, the petition requires to be partly allowed by keeping the departmental inquiry in abeyance and by directing the respondent authorities not to proceed with the departmental inquiry till the final outcome of the criminal proceedings. It is, however, clarified that irrespective of the result of the criminal prosecution after the criminal prosecution is over it is open to the respondent authorities to start departmental proceedings in accordance with law. Rule is made absolute to that extent with no order as to costs. It is also open to take all the contentions available to him as no such inquiry is initiated including the judgment or order passed by the Competent Court. DS.